

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

IN THE SENATE

SENATE BILL NO. 1017

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO PROVIDERS OF TELECOMMUNICATIONS SERVICE; AMENDING SECTION 40-210, IDAHO CODE, TO PROVIDE THAT THE IDAHO TRANSPORTATION DEPARTMENT AND URBAN RENEWAL AGENCIES SHALL PARTIALLY REIMBURSE TELECOMMUNICATIONS SERVICE PROVIDERS FOR THE COST OF RELOCATION OF FACILITIES TO ACCOMMODATE CERTAIN PROJECTS, TO PROVIDE FOR APPLICABILITY AND TO DEFINE TERMS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 40-210, Idaho Code, be, and the same is hereby amended to read as follows:

40-210. LEGISLATIVE INTENT -- UTILITY FACILITIES -- COORDINATED RELOCATION POLICIES -- PROVIDERS OF TELECOMMUNICATIONS SERVICE -- PARTIAL REIMBURSEMENT REQUIRED FOR IDAHO TRANSPORTATION DEPARTMENT AND URBAN RENEWAL AGENCY PROJECTS -- DEFINITIONS. (1) Public highways are intended principally for public travel and transportation; however, the public highways and the public right-of-way used in connection with the public highways are also lawfully used in connection with uses associated with utility purposes necessary to provide utility services to the public. Without making use of public highways and their associated rights-of-way, the utility facilities and services could not reach or economically serve the residents of the state of Idaho.

Therefore, it is the intent of the legislature that the public highway agencies and utilities engage in proactive, cooperative coordination of highway projects through a process that will attempt to effectively minimize costs, limit the disruption of utility services, and limit or reduce the need for present or future relocation of such utility facilities.

(2) In furtherance of the legislative intent expressed in subsection (1) of this section, public highway agencies engaged in a public highway project that may require the relocation of utility facilities, or any private party working with a public highway agency on a project that may require the relocation of utility facilities in connection therewith, shall permit the affected utility to participate in project development meetings. In addition, at the beginning of the preliminary design phase of the project, the public highway agency shall, upon giving written notice of not less than thirty (30) days to the affected utility, meet with the utility for the purpose of allowing the utility to review plans, understand the goals, objectives and funding sources for the proposed project, provide and discuss recommendations to the public highway agency that would reasonably eliminate or minimize utility relocation costs, limit the disruption of utility services, eliminate or reduce the need for present or future utility facility relocation, and provide reasonable schedules to enable coordination of the highway project construction and such utility facility relocation as

may be necessary. While recognizing the essential goals and objectives of the public highway agency in proceeding with and completing a project, the parties shall use their best efforts to find ways to (a) eliminate the cost to the utility of relocation of the utility facilities, or (b) if elimination of such costs is not feasible, minimize the relocation costs to the maximum extent reasonably possible.

(3) If a utility has received notice of the preliminary design meeting as set forth in subsection (2) of this section and has failed to respond or participate in meetings described therein, such failure to respond or participate in such meetings shall not in any way affect the ability of the public highway agencies to proceed with the project design or construction.

(4) In the event a telecommunications service provider is required to relocate its facilities:

(a) To accommodate an Idaho transportation department project to construct or improve a state highway system as defined in section 40-120(5), Idaho Code, the Idaho transportation department shall directly reimburse the telecommunications service provider seventy-five percent (75%) of the cost of relocation of its facilities.

(b) To accommodate an urban renewal agency project, the urban renewal agency shall directly reimburse the telecommunications service provider seventy-five percent (75%) of the cost of relocation of its facilities.

The provisions of this subsection shall also apply to any such facility relocation in the process of being conducted on the effective date of this act.

(5) As used in this section:

(a) "Cost of relocation" includes the entire amount paid by the telecommunications service provider attributable to the relocation of the utility facility after deducting any salvage value derived from the old utility facility.

(b) "Telecommunications service provider" means facilities-based providers of local exchange services as described in section 62-603(13), Idaho Code.

(c) "Utility" means an entity comprised of any person, private company, public agency or cooperative owning and/or operating utility facilities.

(d) "Utility facility" means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, cable television, electricity, light, heat, gas, oil, crude products, ore, water, steam, waste or storm water not connected with highway drainage and other similar commodities.

(56) No provision of this chapter shall diminish or otherwise limit the authority of this state, highway district or other political subdivision having jurisdiction over the public right-of-way. Nothing in this chapter shall be construed to limit, abrogate or supersede the provisions of the applicable local ordinance or regulations governing the use of the public right-of-way.